



MEMO ENDORSED

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August 24, 2023

VIA ECF

Honorable Barbara C. Moses
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Peter Delgado v. City of New York, et al.*, 19 Civ. 6320 (JPC)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing defendants City of New York, Sergeant Md Samsuddin, Sergeant Luis Rodriguez, Police Officer Kyle Ting, and Police Officer Wilfred Martinez in the above-referenced matter. Defendants write jointly with plaintiff to respectfully request that the Court adjourn the settlement conference recently scheduled for August 31, 2023, at 2:15 p.m.

By way of background, pursuant to Local Civil Rule 83.10 the parties attended a mediation on June 24, 2020, which was unsuccessful. On July 29, 2022, the parties held informal settlement discussions and agreed that a settlement conference would not be productive. The parties so informed the Court in a joint status letter filed that day. ECF No. 92. Thereafter, defendants filed a motion for summary judgment, which was fully briefed on February 7, 2023. ECF Nos. 97, 99–101, 111–114, 120–121.

At a status conference on July 10, 2023, the Court ordered the parties to attend a settlement conference. Both parties raised concerns that a settlement conference would not be productive without knowing which claims (if any) will survive summary judgment and proceed to trial. On August 22, 2023, after conferring with the parties on their availability, the Court scheduled an in-person settlement conference for August 31, 2023, at 2:15 p.m. ECF No. 125.

On August 23, 2023, pursuant to the Court's August 22, 2023 Order, *id.* at 2, the parties conducted a good-faith settlement discussion by telephone. The parties are orders of magnitude apart and agree that a settlement conference is still unlikely to be productive at this time. As such,

the parties agreed to jointly request that the Court adjourn the August 31, 2023 settlement conference until a date after the Court decides defendants' motion for summary judgment.

In this case, plaintiff seeks compensatory damages for three separate arrests. The totality of the circumstances of each arrest are different, although defendants contend probable cause existed on all three dates, while plaintiff contends he was falsely arrested on all three dates. The disposition of each of those claims will significantly impact plaintiff's recoverable damages at trial and, consequently, both parties' settlement positions.

In the event that the Court denies this request, defendants note that their counsel has already offered plaintiff the full extent of his settlement authority. Given the posture of this case, plaintiff's current settlement position, and mindful of this Court's Order in *Lopez*,¹ the undersigned defense counsel will attend the August 31, 2023 settlement conference with the full settlement authority authorized by his client, the New York City Comptroller's Office, a representative of which will attend the conference by telephone. *See* ECF No. 127. To be clear, while that representative has full authority to approve a settlement in any amount, defendants do not intend, at this time, to agree to a settlement in an amount above defendants' last offer.

For just this reason, rather than waste judicial resources on a settlement conference that is unlikely to be productive, the parties jointly request that the Court adjourn the August 31, 2023 settlement conference until a date to be set after the Court decides defendants' pending motion for summary judgment.

The parties thank the Court for its time and consideration of this matter.

Application GRANTED. The settlement conference scheduled for August 31, 2023 is ADJOURNED *sine die*. No later than two weeks after any decision on the defendants' motion for summary judgment, the parties shall jointly contact the chambers of Magistrate Judge Barbara Moses in order to advise the Court whether a settlement conference may be productive. SO ORDERED.



Barbara Moses
United States Magistrate Judge
August 25, 2023

Respectfully submitted,



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¹ Order dated May 4, 2023 at ECF No. 85 in *Lopez v. New York City Dep't of Ed., et al.*, 17 Civ. 9205 (S.D.N.Y.).